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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION TWO

In re RONALD C., a Person Coming Under
the Juvenile Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

RONALD C.,

Defendant and Appellant.

A128756

(Alameda County
Super. Ct. No. SJ08010382)

Appellant Ronald C., a minor, appeals from a dispositional order of the juvenile court following a finding that he committed robbery (Pen. Code, § 211; count 1) with the personal use of a firearm (Pen. Code, § 12022.53, subd. (b); count 2).¹ His appointed counsel raises no issues and seeks our independent review of the record pursuant to *People v. Wende* (1979) 25 Cal.3d 436.

BACKGROUND

On February 15, 2010, around 8:30 p.m., Nino Sandoval and his wife were driving on 79th Avenue² in Oakland when they were stopped by a man on a bicycle and robbed at gunpoint. The robber pointed what appeared to be a semi-automatic gun at Sandoval,

¹ Count 2 was amended to show as an enhancement to count 1.

² Counsel misstates the location as 79th Street.

ordered him out of his truck, and demanded his money. After Sandoval handed over his wallet, the robber took it and left. Neither the wallet nor the gun was ever recovered.

At the jurisdictional hearing, Sandoval testified about three separate opportunities that he had to observe the robber. First, as Sandoval was driving, he noticed the would-be robber on a bicycle about two or three blocks in front of him, with nobody else around. Second, as he was being robbed, Sandoval looked at and interacted with the robber for 5 to 10 minutes. Third, after the robbery, Sandoval followed the robber closely in his truck until an officer told him to stop. All this occurred at dusk, but Sandoval could see clearly and the area was well-lit with street lamps.

Sandoval further testified that he positively identified appellant later that night, while appellant was in police custody. The identification was based on his recognition of appellant's face and clothing. In particular, Sandoval described the robber as a young African-American with short, curly hair, 15 to 20 years old, about 5'5", 80 to 85 kilograms,³ wearing a dark jacket with "hairs on the hood,"⁴ and riding a bicycle. The police report states that the officers stopped appellant due to his proximity to the crime scene and similarity to Sandoval's description.

The defense called Rosetta Heartway, appellant's mother, who testified that she had seen appellant outside his aunt Brenda Bush's apartment around the time of the robbery. According to Heartway, appellant called her around 8:00 p.m. and met with her 15 minutes later at Walgreens, located at 82nd and International Boulevard. Defense entered into evidence her Walgreens receipt with a timestamp of 8:19 p.m. Appellant waited outside with two companions while Heartway made purchases, after which she drove him back to Bush's apartment at 79th and MacArthur Boulevard. When they got there, Heartway and appellant went across the street for some snacks, and then appellant entered the gate of the apartment building. Heartway testified that she could see

³ This converts to approximately 176 to 187 pounds.

⁴ In his police statement given shortly after the robbery, Sandoval described the jacket as having "fur around the hood."

appellant through the gates from her car, where she sat talking to a friend until close to 9:00 p.m.

However, the other defense witness Brenda Bush's testimony casts doubt on Heartway's version of events. According to Bush, appellant called Heartway between 5:00 and 6:00 p.m. At some point, appellant left the apartment and returned with Heartway, but this occurred before 8:00 p.m. when Bush saw him leave again. Around the same time, Heartway entered the apartment to talk with Bush as she did every day, instead of staying outside in her car. Bush also stated that appellant had a jacket with a fur-lined hood, although she did not know if he wore it that night.

Based on the foregoing evidence, the juvenile court found beyond a reasonable doubt that appellant had robbed Sandoval with the personal use of a firearm. The court ordered appellant to be placed in an out-of-home treatment program, despite the probation officer's recommendation of commitment to the Department of Juvenile Justice.⁵ The maximum term of confinement was determined to be 16 years 4 months.

Appellant filed a timely notice of appeal. No supplemental briefing has been received to date.

DISCUSSION

To determine the sufficiency of the evidence, “ ‘[t]he court must review the whole record in the light most favorable to the judgment below to determine whether it discloses substantial evidence—that is, evidence which is reasonable, credible, and of solid value—such that a reasonable trier of fact could find the defendant guilty beyond a reasonable doubt.’ [Citation.]” (*People v. Carter* (2005) 36 Cal.4th 1114, 1156.)

We have examined the entire record and conclude that there was substantial evidence to sustain the allegations against appellant. At the hearing, the juvenile court heard several witness testimonies and, as the trier of fact, could have reasonably believed or disbelieved any one of them. The court expressly stated that it found Sandoval's

⁵ The probation officer's recommendation was based in part on a prior sustained petition. On August 27, 2008, appellant admitted to making criminal threats (Pen. Code, § 422), and was placed on in-home probation with various conditions.

identification to be credible, that the inconsistencies in the testimonies of Heartway and Bush tended to support the case against appellant, and that a firearm caused Sandoval to fear for his life. Thus, the findings were proper.

We are also satisfied that the record supports the juvenile court's decision to place appellant in an out-of-home treatment program. We have previously explained that, in determining the proper placement of a juvenile delinquent, the juvenile court has “ ‘maximum flexibility to craft suitable orders aimed at rehabilitating the particular ward before it. [Citation.]’ ” (*In re James R.* (2007) 153 Cal.App.4th 413, 432.) In this case, the court considered both the probation officer's dispositional report and a guidance clinic psychological evaluation, as well as weighed the gravity of the offense and public safety, appellant's probation history, his family situation, and his personal needs. (See Welf. & Inst. Code, § 725.5.) Thus, there was no abuse of discretion and the disposition was proper.

DISPOSITION

The judgment is affirmed.

Lambden, J.

We concur:

Kline, P.J.

Richman, J.